

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 /059 W

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P R 161120Z JUL 76

FM USMISSION USBERLIN

TO AMEMBASSY BONN PRIORITY

INFO SECSTATE WASHDC 2806

AMEMBASSY BERLIN UNN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION USNATO

USMISSION USEC BRUSSELS

C O N F I D E N T I A L USBERLIN 1472

E.O.11652: GDS

TAGS: PGOV, PFOR, WB, GW

SUBJECT: BERLIN AND DIRECT ELECTIONS TO EUROPEAN PARLIAMENT

REFS: A) EC BRUSSELS 6907, B) BONN 11595, C) USBERLIN 1458

1. IN EVENT EC'S COREPER DECIDES THAT COMMUNITY FOREIGN MINISTERS SHOULD IMPLEMENT HEADS OF STATE DECISION ON DIRECT ELECTION OF EUROPEAN PARLIAMENT BY COUNCIL REGULATION AT JULY 19-20 MEETING RATHER THAN BY FORMAL INTERNATIONAL CONVENTION BETWEEN EC MEMBER STATES (REFS A AND B),SOME CHANGES WOULD BE NECESSARY IN DRAFT BK/L ON SPECIAL BERLIN SITUATION (REF C). SITUATION WOULD TO EXTENT BE ANALOGOUS TO THAT DEALT WITH BY ALLIES IN 1975 WHEN EC COUNCIL GAVE LEGAL FORM TO DECISION TO ESTABLISH EUROPEAN VOCATIONAL CENTER BY MEANS OF REGULATION. AT THAT TIME ALLIES ISSUED BK/L(75)3 STATING THAT KOMMANDATURA HAD RECEIVED COPY OF REGULATION WHICH WAS SUBMITTED TO IT IN ACCORDANCE WITH ESTABLISHED PROCEDURES AND RAISED NO OBJECTION TO ESTABLISHMENT OF VOCATIONAL
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CENTER IN WESTERN SECTORS. IN BK/L(75)17 ISSUED

SAME DAY, ALLIES ADVISE SENAT THAT IT COULD PUBLISH COUNCIL REGULATION IN BERLIN GAZETTE THUS GIVING FINAL LEGAL EFFECT TO IT IN CITY. POINT OF BK/O AND BK/L WAS TO MAKE CLEAR THAT, ANALOGOUS TO TREATY PROCEDURE, EC COUNCIL REGULATION WAS NOT DIRECTLY APPLICABLE IN BERLIN BUT BECAME BINDING IN CITY ONLY AFTER ALLIED REVIEW AND PUBLICATION IN BERLIN GAZETTE.

2. WE ARE CONCERNED THAT, UNLIKE CASE WITH CONVENTION WHICH WOULD REQUIRE RATIFICATION AND WHICH WOULD BE SUBMITTED TO ALLIED KOMMANDATURA FOR A ROUTINE REVIEW THAT WOULD PROVIDE OPPORTUNITY FOR ISSUANCE OF OUR BK/L, A COUNCIL REGULATION MIGHT BE ISSUED RELATIVELY QUICKLY AND WOULD GIVE APPEARANCE OF BEING DIRECTLY APPLICABLE IN BERLIN UNDER EC LAW FROM MOMENT OF ITS ISSUANCE. WE MIGHT THUS NEED TO RESPOND RATHER MORE QUICKLY WITH OUR ALLIED AUTHORIZATION IF WE WISH TO MAKE PROPPHYLACTIC POINT THAT EC ACTION IS SUBJECT TO RESERVED ALLIES RIGHTS AND RESPONSIBILITIES.

3. WE MIGHT ALSO NEED TO THINK THROUGH AGAIN QUESTION OF WHETHER ALLIED AUTHORIZING STATEMENT SHOULD BE BK/L OR BK/O. WE FAVORED FORMER IF EC DECISION WAS TO BE IMPLEMENTED BY A CONVENTION AMEDNING TREATY OF ROME BECAUSE THAT WAS FORMULA USED BY ALLIES IN 1957 AND 1976 WHEN CONSTITUENT COMMUNITY TREATIES THEMSELVES WERE APPROVED FOR EXTENSION TO CITY. ON OTHER HAND, IN CLOSEST ANALOGOUS CASE TO A COUNCIL REGULATION ON DIRECT ELECTIONS -- DECISION ON VOCATIONAL CENTER -- WE CHOSE BK/O ROUTE. BK/O WOULD PROBABLY BE SOMEWHAT LESS NECESSARY THIS TIME SINCE DECISION WOULD BE BASED NOT ON ARTICLE 235 OF TREATY OF ROME, THE OPEN-ENDED ARTICEL GIVING COUNCIL POWER TO TAKE MEASURES NOT SPECIFICALLY PROVIDED FOR IN SOME OTHER ARTICLE OF TREATY, BUT ON ARTICLE 138, WHICH ENVISAGES AN EVENTUAL COUNCIL DECISION ON DIRECT ELECTION OF PARLIAMENT AND WHICH ALLIES WERE AWARE OFWHEN THEY APPROVED EXTENSION OF TREATY OF ROME 19 YEARS AGO. FOR CONSISTENCY'S

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SAKE, HOWEVER, WE WOULD SLIGHTLY FAVOR USE OF BK/O. WE PROVIDE BELOW OUR SUGGESTED REDRAFT OF TEXT CONTAINED REF C IN BK/O FORM FOR POSSIBLE USE IN EVENT EC DECIDES TO IMPLEMENT DIRECT ELECTION DECISION BY COUNCIL REGULATION. IF DRAFT ALONG THESE LINES WAS ADOPTED, INCIDENTALLY, WE COULD PROBABLY AVOID EXTRA STEP OF ISSUING SIMULTANEOUS BK/L WHICH WE TOOK IN VOCATIONAL CENTER CASE.

4. BEGIN TEXT:

SUBJECT: ELECTIONS TO THE EUROPEAN PARLIAMENT

THE ALLIED KOMMANDATURA, HAVING RECEIVED REGULATION (EEC) NO. (BLANK) OF THE COUNCIL OF THE EUROPEAN COMMUNITIES OF (BLANK) DATE, WHICH WAS SUBMITTED TO IT IN ACCORDANCE WITH THE ESTABLISHED PROCEDURES, HAS NO OBJECTION TO THE APPLICATION TO BERLIN OF THIS REGULATION TO THE EXTENT COMPATIBLE WITH ALLIED RIGHTS AND RESPONSIBILITIES, ON THE UNDERSTANDING THAT THE BERLIN HOUSE OF REPRESENTATIVES WILL SELECT THE REPRESENTATIVES FOR THOSE SEATS WHICH FALL TO BERLIN WITHIN THE QUOTA SET FOR THE FEDERAL REPUBLIC OF GERMANY. APPLICATION OF THE REGULATION TO BERLIN DOES NOT IMPLY THAT ALLIED LEGISLATION AND IN PARTICULAR BK/L(57)44 AND BK/L(65)51 HAVE BEEN REPEALED OR MODIFIED IN ANY WAY. THE REGULATION MAY ACCORDINGLY BE PUBLISHED IN THE GESETZUNDVERORDNUNGSBLATT FÜR BERLIN
END TEXT.

5. WE WILL BE CIRCULATING THIS REDRAFT FOR ALLIED MISSION VIEWS BUT WISHED TO MAKE IT AVAILABLE TO EMBASSY FOR CONSIDERATION IN EVENT COREPER DECISION SHOULD REQUIRE EARLY ACTION IN BONN GROUP.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MEMBERSHIP, AGREEMENT DRAFT, ELECTIONS, REGIONAL ORGANIZATIONS, BERLIN QUADRIpartite MATTERS
Control Number: n/a
Copy: SINGLE
Draft Date: 16 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976USBERL01472
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760274-0983
From: USBERLIN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760748/aaaabqag.tel
Line Count: 141
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 EC BRUSSELS 6907, 76 BONN 11595, 76 USBERLIN 1458
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 31 MAR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <31 MAR 2004 by greeneet>; APPROVED <01 APR 2004 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: BERLIN AND DIRECT ELECTIONS TO EUROPEAN PARLIAMENT
TAGS: PGOV, PFOR, WB, GE, EEC
To: BONN
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006